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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,061	06/29/2001	David J. Schmitz	01-381	9465

7590 03/14/2006
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EXAMINER

POINVIL, FRANTZY

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/896,061	SCHMITZ ET AL.	
	Examiner	Art Unit	
	Frantzy Poinvil	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/14/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minton (US Patent No. 6,014,643).

As per claims 1-4, 6-8 and 21-23, Minton discloses a system and method for processing a customer's trade order for a product being a security, derivative or commodity (see figure 4) through a brokering or participant's system. Minton states that a customer accesses a financial computerized system, selects securities to buy or sell and transmits an order to be executed by a broker to the broker's server system. See column 7, lines 35-60 and column 8, lines 43-46. Minton states that "When the user's order is received at server 316, the order is reviewed by a broker, then, the order is combined with other orders for transmission to the other users". The order is either approved or rejected by the broker. See column 8, lines 8-22 and column 12, lines 38-53 of Minton. Minton discloses the broker will process the order for validation, approval and execution. Minton then states that "Once an order has been executed, a confirmation screen will appear with the security symbol that was just bought or sold, the number of shares traded, and the price at which the shares were traded". Minton

does not specifically state “executing a portion of the electronic order against the participant”. However, the Examiner asserts that approving or rejecting an order will depend on factors such as commission and fees. A broker’s fee is usually a set fee being charged as a commission with an additional fee based on the number of shares being bought or sold by a customer.

Thus, the fees and commission would have then been a portion of the electronic order or a portion taken against the customer’s account or electronic purchase order. The remaining portion of the electronic order would have then been executed in the automated execution system. Column 13, lines 7-45 of Minton. Such a notation would have been obvious to one of ordinary skill in the art to do so as to effect a manner in which to pay a broker for his/her service.

As per claim 5, Minton does not explicitly state, “wherein executing a portion of the electronic order against the participant further comprises assigning a percentage of the contra-side each electronic order to the participant”. This is similar to the broker charging the purchaser who has placed a sell/buy order for their service. See column 13, lines 19-32.

As per claim 9, the electronic order is for a customer and the customer receives the National Best Bid or Offer for the electronic order. See column 13.

Claims 10-11 and 15 contain limitations recited in claims 1-4 and therefore are rejected under a similar rationale. The claimed book order is similar to the customer’s

account, and the market maker subsystem being the participant's or broker's ordering system.

As per claim 12, the electronic order is entered into the user device of the participant or broker and the customer. See column 7, lines 9-31.

As per claim 13, Minton discloses receiving the electronic order at a trading facility. See column 7, line 43 to column 8, line 39.

As per claim 14, Minton also discloses executing the electronic order against a book comprises attempting to match the electronic order against an order resting in a book. See column 12, lines 38-53.

As per claim 16, the electronic order is for a customer and the customer receives the National Best Bid or Offer for the electronic order. See column 13.

Claim 17 contains limitation recited in claim 1 and these limitations are rejected under a similar rationale. Claim 17 further recites a step of "automatically executing a remaining portion of the electronic order against one or more market makers". As per this limitation, the Examiner asserts that if one or more market makers places an order for a customer and the one or more market makers desires to place an order with his commission or fee, then automatically executing a remaining portion of the electronic order against one or more market makers would have been obvious to do in the system of Minton since the remaining portion would belong to the market makers.

As per claim 18, see the rejection of claim 5 above.

As per claim 19, the predetermined portion of the electronic order is in the range of 0 to 100% of the electronic order depending on the commission or set fee for the participant, or market maker

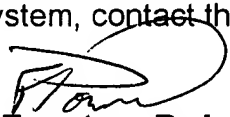
As per claim 20, the market makers of Minton comprise market makers, specialists and designated primary market makers.

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday from 7:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached on (571) 272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Frantzy Poinvil
Primary Examiner
Art Unit 3628

FP
March 6, 2006